

**Amendments to Title 17, California Code of Regulations, Subchapter 4.
Residential Services and Quality Assurance Regulations**

Article 1. Definitions

56002. Definitions.

- (a) The following definitions shall apply to the regulations used in this Subchapter:
- (1) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf who assumes responsibility for facility operations.
 - (2) "Admission Agreement" means the agreement required pursuant to Title 22, California Code of Regulations, sections 80068, 85068 and 87718.
 - (3) "Authorized Consumer Representative" means the parent, or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer.
 - (4) "Child With Special Health Care Needs" means a child with a developmental disability who: 1) is receiving services and service coordination from a regional center; 2) is placed in a foster family home, small family home or group home; and 3) has a medical condition that can rapidly deteriorate, resulting in permanent injury or death; or who has a medical condition that requires specialized in home health care, including an internal feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, urinary catheterization, ministrations imposed by tracheostomy, colostomy, ileostomy, or other medical or surgical procedures; or special medication regimens, including injection, aerosol treatment, and intravenous or oral medication which requires specialized in-home health care.
 - (5) "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of the Welfare and Institutions Code section 4512, and of Title 17, California Code of Regulations, sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility.
 - (6) "Consumer Notes" means those ongoing notations made in the individual consumer file at the facility which are incidental to specific events in the consumer's life, and which are made at the time of occurrence and are not a part of the quarterly or semi-annual report.
 - (7) "Consumer Services" means those services which the residential service provider is responsible for implementing as a part of the program design and the consumer's IPP.
 - (8) "Consumers' Rights" means the rights of regional center consumers residing in facilities, as specified in Welfare and Institutions Code sections 4502, 4502.1, 4503, 4504, 4705 and 4710.6; and Title 17, California Code of Regulations, Division 2, Chapter 1, Subchapter 5,

sections 50510, 50515(a)(2), (b)(2) and (c), 50520(b), 50530, 50532, 50534, 50536, 50540 and 50960.

- (9) "Contact" means any communication between two or more persons or entities by means of face-to-face meetings, phone conversations, or letters.
- (10) "Days" means calendar days unless otherwise stated.
- (11) "Department" means the State Department of Developmental Services.
- (12) "Direct Care Staff" means facility staff, in Service Level 2, 3 and 4 facilities, who personally provide direct supervision and special services to consumers. The term includes the licensee, administrator and management or supervisory staff during that time when they are providing direct supervision and special services to consumers or are involved in performing program preparation functions.
- (13) "Director" means the Director of the Department of Developmental Services or his/her designee.
- (134) ~~"Direct Supervision" means assisting, prompting or training a consumer to meet his/her service needs, in the areas related to self-help, food preparation, household maintenance, handling money and making purchases, accessing community resources and participation in leisure time activities~~ those activities in which direct care staff provide care, supervision, training and support to promote the consumer's functioning in the areas of self-care, daily living skills, physical coordination, mobility, behavioral self-control, choice-making, community integration, accessing community resources and participating in leisure time activities.
- (14) ~~"Director" means the Director of the Department of Developmental Services or his/her designee.~~
- (15) "Facility" means a licensed community care facility as defined in Health and Safety Code section 1502(a)(1), (4), (5) or (6); or a licensed residential care facility for the elderly as defined in Health and Safety Code section 1569.2(k), which has been vendorized as a residential facility by a regional center pursuant to the requirements of Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2.
- (16) "Facility Liaison" means the person, or his or her designee, assigned by the regional center as the principal coordinator between the regional center and the facility.
- (17) "Facility Staff" means the administrator and direct care staff employed by the facility who provide direct supervision and special services to consumers residing in the facility, and consultants employed by the facility who provide support to direct care staff.
- (18) "Immediate Danger" means conditions which constitute an impending threat to the health and safety of a consumer(s) and which require immediate action by the regional center to safeguard the health and safety of the consumers in the facility.

- (19) "Individual Life Quality Outcomes" means desired outcomes for individual life quality and represent life conditions that people have identified as being important in their everyday lives.
- (20) "Individual Program Plan (IPP)" means a written plan that is developed by a regional center Interdisciplinary Team, in accordance with the provisions of Welfare and Institutions Code sections 4646 and 4646.5.
- (21) "Interdisciplinary Team (ID Team)" means the group of persons convened, in accordance with Welfare and Institutions Code sections 4646 and 4646.5, for the purpose of preparing a consumer's IPP.
- (22) "Looking at Service Quality Provider's Handbook" means the publication so entitled and developed by the Department to help administrators and direct care staff increase the quality of their services through a self-assessment of their direct supervision and special services to consumers. The self-assessment is based upon twenty-five individual life quality outcomes. The publication entitled "Looking at Service Quality Provider's Handbook," original edition which bears no revision or publication date, is hereby incorporated by reference as though fully set forth herein.
- (23) "Medication" means any drug or other agent ordered by a physician, and over-the-counter medications used to treat symptoms of illness or injury.
- (24) "Natural Environment" means places and social contexts commonly used by individuals without developmental disabilities.
- (25) "Noncompliance" means failure to comply with any of the requirements of Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapters 4 or 6.
- (26) "Normalization" means life conditions which enable consumers to lead more independent, productive and normal lives which approximate the pattern of daily living of non-disabled persons of the same age and reflect personal choice.
- (27) "Personal and Incidental Allowance" means that portion of the Supplemental Security Income/State Supplemental Program (SSI/SSP) payment designated for the personal expenses of the consumer.
- (28) "Placement" means the process the regional center and the consumer complete to assist the consumer to locate and make an initial move to a facility.
- (29) "Program Design" means the description of consumer services offered by a facility, the functional characteristics of the consumers the facility will serve, and the resources available to meet individual service needs consistent with the facility's service level.
- (30) "Program Preparation Functions" means ancillary activities performed by direct care staff or administrators, including, but not limited to, data collection and analysis, development of training plans, staff meetings, consumer meetings and parent conferences.
- (31) "Quality Assurance (QA) Coordinator" means that person who is

- knowledgeable in, and designated by the regional center to be responsible for, managing all elements of the Quality Assurance Plan.
- (32) "Quality Assurance (QA) Evaluation" means the process of assessing a specific facility's ability to provide the minimum acceptable level of service required by these regulations and the effects of those services upon the consumers served.
 - (33) "Quality Assurance Evaluation Team" means a group of two or more persons who perform a QA evaluation and have knowledge of residential services for persons with a developmental disability by virtue of personal, professional or academic experience or training.
 - (34) "Quality Assurance (QA) Plan" means the written plan developed by each regional center to coordinate the QA evaluation process, ongoing monitoring, and necessary training and technical assistance to assure implementation of these regulations.
 - (35) "Regional Center" means a diagnostic, counseling and service coordination center for developmentally disabled persons and their families which is established and operated pursuant to Welfare and Institutions Code sections 4620 through 4669, by a private nonprofit community agency or corporation acting as a contracting agency. As used in these regulations, any reference to the regional center shall, by reference, be applicable to those agencies or persons with which the regional center contracts or employs to provide service coordination to consumers under the provisions of Welfare and Institutions Code section 4647.
 - (36) "Regional Center Director" means the Director of the Regional Center or his/her designee.
 - (37) "Regional Center Representative" means a person who is employed or designated by the regional center to represent that agency.
 - (38) "Relocation" means the process the regional center and the consumer complete to enable a consumer to move from one facility to another.
 - (39) "Residential Service(s)" means the direct supervision and special services which facility staff provide to a consumer during the process of implementing the program design and achieving the objectives of the Individual Program Plan (IPP) for which the residential service provider is responsible.
 - (40) "Residential Service Provider" means an individual or entity which has been licensed by the Department of Social Services as a community care facility pursuant to Health and Safety Code section 1502(a)(1), (4), (5) or (6); or is defined as a licensed facility for the elderly in Health and Safety Code section 1569.2; has completed the vendorization process pursuant to Title 17, California Code of Regulations, Division 2, Subchapter 2; and has been assigned a vendor identification number beginning with the letter "H" pursuant to Title 17, California Code of Regulations, section

- 54340(a)(1).
- (41) "Self ~~Help~~Care" means providing for, or meeting, a consumer's own physical and personal needs in the areas related to eating, dressing, toileting, bathing and personal hygiene.
 - (42) "Serious bodily injury" means a serious bodily injury as defined in Title 17, California Code of Regulations, Section 54302(a)(53).
 - (43) "Service Coordinator" means the regional center or designee agency employee, or his/her designee, who has responsibility for providing or ensuring service coordination as specified in Welfare and Institutions Code Section 4647.
 - (44) "Service Level" means one of a series of 4 levels which has been approved for each facility by a regional center. Service Levels 2, 3 and 4 have a specified set of requirements that a facility must meet which addresses the direct supervision and special services for consumers within that facility.
 - (45) "Service Needs" means those consumer needs which require direct supervision and special services, which are identified through the ID Team assessment process.
 - (46) "Service Outcomes" means the results, for the consumer, of direct supervision and special services provided by the facility's program.
 - (47) "Special Incident Report (SIR)" means a special incident report as defined in Title 17, California Code of Regulations, section 54302(a)(62).
 - (48) "Special Services" means specialized training, treatment, and/or supervision which are required by the consumer's IPP and provided by the facility direct care staff in addition to direct supervision.
 - (49) "Submit" means the postmarking or hand delivery of the item required no later than the last day of the timeline allowed.

NOTE: Authority cited: ~~Section 11152, Government Code~~; Sections 4681.1, 4681.5(e) and 4748, Welfare and Institutions Code. Reference: Sections 4501, 4502, 4503, 4504, 4646, 4646.5, 4647, 4648, 4681.1, 4681.5, 4695, 4705, 4740 through 4748 and 17710, Welfare and Institutions Code; Sections 1502(a) and 13131, Health and Safety Code.

Article 6. Welfare and Institutions Code Section 4681.5
Direct Care Staff Training Regulations

56031. Definitions.

(a) When used in this article, the following words and phrases shall have the following meanings:

- (1) "Certified Family Home" means a family residence which is certified by a licensed Foster Family Agency (FFA) and is issued a certificate or approved by that FFA as meeting licensing standards, and is used only by that FFA for the placement of children.
- (2) "Certified Parent" means the adult(s) residing in a home which has been certified by a Foster Family Agency to provide care and supervision to children placed exclusively by that FFA.
- (3) "Challenge Test" means a Department-approved test which, if passed, substitutes for and satisfies the requirement of one of the two 35-hour competency-based training segments required by Welfare and Institutions Code Section 4681.5(a), (b) and (c).
- (4) "Competency-based Training and Testing" means the two 35-hour competency-based training courses and related competency tests which direct care staff are required by Welfare and Institutions Code Section 4681.5(a), (b) and (c) to complete satisfactorily.
- (5) "Direct Care Staff" means facility staff, in Service Level 2, 3 and 4 facilities, who personally provide direct supervision and special services to consumers. The term includes the administrator and management or supervisory staff only for the time that they are providing direct services to consumers.
- (6) "Foster Family Agency (FFA)" means a foster family agency as defined in Health and Safety Code Section 1502(a)(4).

Note: Authority cited: Section 4681.5(e), Welfare and Institutions Code. Reference: Section 4681.5, Welfare and Institutions Code.

56033. Direct Care Staff Competency-Based Training and Testing Requirements.

(a) The following competency-based training and testing requirements apply only to those direct care staff who are employed in Service Level 2, 3, and 4 facilities.

- (1) Direct care staff employed in Service Level 2, 3, and 4 facilities before January 1, 2000 shall have until:
 - (A) January 1, 2001 to satisfactorily complete the first 35-hour competency-based training course and pass the competency test applicable to that training segment, or to pass a challenge test applicable to that training segment; and
 - (B) January 1, 2002 to satisfactorily complete the second 35-hour competency-based training course and pass the competency test

applicable to that training segment, or to pass a challenge test applicable to that training segment.

(2) Direct care staff hired in Service level 2, 3, and 4 facilities on or after January 1, 2000 shall have:

- (A) One year from the date on which the direct care staff was hired to satisfactorily complete the first 35-hour competency-based training course and pass the competency test applicable to that training segment, or to pass a challenge test applicable to that training segment; and
- (B) Two years from the date on which the direct care staff was hired to satisfactorily complete the second 35-hour competency-based training course and pass the competency test applicable to that training segment, or to pass a challenge test applicable to that training segment.

(b) After the direct care staff completes a challenge test for either of the two 35 hour training segments, the Department shall provide the direct care staff with written notification of the results of the challenge test.

- (1) A direct care staff who does not pass the challenge test shall take the applicable competency-based training and competency test required by subsection (a)(1) or (2).
- (2) A direct care staff may take only one challenge test for each of the two 35-hour training segments prior to attending the related competency-based training segment.

(c) After completing either 35-hour training segment, each direct care staff shall take a competency test to assess the direct care staff's competency in specific knowledge areas.

(d) Within 60 days of a direct care staff taking the competency test for either of the 35-hour training segments, the Department shall provide the direct care staff and his/her administrator with written notification that the direct care staff has:

- (1) Satisfactorily completed the competency testing requirement for the applicable 35-hour training segment; or
- (2) Satisfactorily completed the competency testing requirement for the applicable 35-hour training segment with knowledge area(s) identified as needing improvement; or
- (3) Failed to satisfactorily complete the competency testing requirement for the applicable 35-hour training segment.

(e) The administrator shall be responsible for ensuring that any direct care staff who has knowledge area(s) identified pursuant to subsection (d)(2) as needing improvement obtains the additional training.

(f) Direct care staff who fail to satisfactorily complete the testing requirement may continue to provide direct supervision and special services to consumers only when the administrator ensures that the direct care staff:

- (1) Repeats the applicable 35-hour training segment and retakes the competency test for that training segment; and
 - (2) Provides direct supervision and special services only in the presence of another direct care staff who has satisfactorily completed the applicable 35-hour training segment or has passed the challenge test applicable to that training segment.
- (A) If the facility is unable to satisfy the requirement in subsection (f)(2), the administrator shall comply with any condition(s) that the regional center may require to protect consumer health and safety.

(g) The requirement of subsection (f)(2) shall remain in effect until such time as the direct care staff has satisfactorily completed the competency test for the applicable 35-hour training segment.

(h) Upon written notification of satisfactory completion of the first 35-hour competency-based training and competency testing requirement pursuant to subsection (d), the direct care staff who has previously failed to satisfactorily complete the competency test for the first 35-hour training segment shall have:

- (1) One year from the date of written notification to satisfactorily complete the second 35-hour training segment; or
- (2) No more than two years from the date the direct care staff was hired, whichever is greater, to satisfactorily complete the competency test for the second 35-hour training segment.

(i) The administrator shall enroll direct care staff in the training required by subsection (a)(1) or (2) on a schedule which ensures the opportunity for satisfactory completion of the training by all of the facility's direct care staff.

Note: Authority cited: Section 4681.5(e), Welfare and Institutions Code. Reference: Section 4681.5, Welfare and Institutions Code.

56034. Training and Testing Requirement for Foster Family Agencies (FFAs).

The administrator of the FFA or his or her designee, and at least one other individual from each FFA suboffice, shall satisfactorily complete the competency-based training and testing required by Section 56033(a)(1) or (2).

Note: Authority cited: Section 4681.5(e), Welfare and Institutions Code. Reference: Section 4681.5, Welfare and Institutions Code.

56034.1. Foster Family Agency Waiver Requirements.

(a) The regional center may waive the requirement for certified parents and FFA staff, other than as required in Section 56034, who provide direct supervision and special services to children who are regional center consumers to complete the direct care staff competency-based training and testing requirements described in Section 56033(a)(1) and (2).

(b) To request a waiver pursuant to subsection (a), the FFA shall submit a training plan to the regional center which shall include, but not be limited to:

- (1) A description of how the FFA's training program is consistent with the requirements for competency-based training required by Welfare and Institutions Code Section 4681.5;
- (2) The titles of all FFA staff who are required to attend the FFA's training;
- (3) The number of hours of training required by the FFA's training plan;
- (4) The period of time over which the FFA's training is to be provided;
- (5) A training schedule for FFA staff who are currently employed and another training schedule for FFA staff who are hired following the effective date of these regulations;
- (6) The titles and qualifications of the individuals who will conduct the FFA's training; and
- (7) A methodology for assessing individual competency in the knowledge area(s) included in the training.

(c) Within 45 days of receiving a complete training plan from an FFA, the regional center shall either approve or deny the FFA's request for a waiver and notify the FFA in writing, by certified mail, of the regional center's approval or denial.

(d) If the FFA's request for a waiver is denied by the regional center, the FFA may, within fifteen days of receipt of the regional center's denial of the FFA's request for a waiver, appeal the regional center's denial of the FFA's request for a waiver to the

Department.

- (e) To file an appeal, the FFA shall send to the Department:
- (1) A copy of the training plan which was submitted to the regional center by the FFA;
 - (2) A copy of the regional center's written denial of the FFA's request for a waiver; and
 - (3) Any other information which the FFA considers appropriate to the appeal.
- (f) The Department shall render a written decision to uphold or deny the regional center's denial of the FFA's request for a waiver within forty-five days of receipt of the information submitted pursuant to subsection (e)(1) through (3).
- (1) The Department's written decision shall be sent to the FFA and the regional center via certified mail within 15 days of the decision being rendered.
- (g) The Department's decision is final.

Note: Authority cited: Section 4681.5(e), Welfare and Institutions Code. Reference: Section 4681.5, Welfare and Institutions Code.

56035. Waiver for Prevailing Rate Facilities.

A facility which is paid a prevailing rate pursuant to Title 17, California Code of Regulations, Section 56919, is waived from the training and competency testing requirements specified in Section 56033(a)(1) and (2).

Note: Authority cited: Section 4681.5(e), Welfare and Institutions Code. Reference: Section 4681.5, Welfare and Institutions Code.

Article 7. Personnel

56036. Training Plans.

- (a) Service Level 2, 3 and 4 administrators shall ensure the development, implementation and maintenance of a written facility staff training plan.

- (b) The plan shall include a description of how each of the following training components will be provided:
- (1) The on-site orientation for direct care staff specified in Section 56038(a)(1);
 - (2) The on-the-job training for direct care staff specified in Section 56038(a)(2); ~~and~~
 - (3) Continuing education requirements as specified in Sections 56037(a) and 56038(a)(3); ~~and~~
 - (4) Any additional training in any knowledge area(s) which is identified as needing improvement in the written notice pursuant to Section 56033(d)(2).
- (A) The written facility staff training plan shall specify a time frame for completing the additional training which shall be no more than one year from the receipt of the written notification pursuant to Section 56033(d)(2).

NOTE: Authority cited: Sections 4681.1 and 4681.5(e) ~~and 4791(i)~~, Welfare and Institutions Code; ~~Chapter 722, Statutes of 1992, Section 147.~~ Reference: Sections 4648, 4648.1, 4681.1, 4681.5, 4695, 4740, ~~4791~~ and 4843, Welfare and Institutions Code.

56037. Administrator Qualifications and Continuing Education.

- (a) Administrators for Service Level 2, 3 and 4 facilities shall fulfill requirements for continuing education in one or more of the following areas, as they relate to the administration and management of residential services for persons with developmental disabilities:
- (1) Consumer services as described in the program design;
 - (2) Promotion of consumers' rights, health, safety and social and physical integration; and
 - (3) The ID Team process, including development and implementation of IPPs.
- (b) Service Level 2 administrators shall:
- (1) Have a minimum of six months of prior experience providing direct supervision and special services to persons with developmental disabilities;

- (A) The regional center shall be permitted to waive the above requirement if the regional center determines that it is necessary to meet consumer needs.
- (2) Complete a minimum of eight hours of continuing education in the areas specified in subsection (a) above within each twelve-month period following the assumption of the duties of an administrator.
- (c) Service Level 3 administrators shall:
 - (1) Have a minimum of nine months of prior experience providing direct supervision and special services to persons with developmental disabilities;
 - (A) The regional center shall be permitted to waive the above requirement if the regional center determines that it is necessary to meet consumer needs.
 - (2) Complete a minimum of 12 hours of continuing education in the areas specified in subsection (a) above within each twelve-month period following the assumption of the duties of an administrator.
- (d) Service Level 4 administrators shall:
 - (1) Have a minimum of 12 months of prior experience providing direct supervision and special services to persons with developmental disabilities;
 - (A) The regional center shall be permitted to waive the above requirement if the regional center determines that it is necessary to meet consumer needs.
 - (2) Complete a minimum of 12 hours of continuing education in the areas specified in subsection (a) above within each twelve-month period following the assumption of the duties of an administrator.
- (e) Service Level 2, 3 and 4 administrators providing direct supervision and special services shall complete any additional training in a specific knowledge area(s) which has been identified as needing improvement in the written notification pursuant to Section 56033(d)(2).
- (f) Successful completion of the competency-based training and passage of the competency test required by Section 56033(a)(1) or (2) shall satisfy the continuing

education requirements specified in this section for an administrator for the year in which the training is satisfactorily completed.

(g) For administrators, passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) shall not satisfy the continuing education requirements specified in this section.

NOTE: Authority cited: Sections 4681.1, 4681.5(e), and ~~4748 and 4791(i)~~, Welfare and Institutions Code; ~~Chapter 722, Statutes of 1992, Section 147~~. Reference: Sections 4648, 4681.1, 4681.5, 4695, 4748, ~~4791~~, 4833 and 4843, Welfare and Institutions Code.

56038. Direct Care Staff Qualifications and Continuing Education Requirements.

(a) Service Level 2, 3 and 4 administrators shall ensure that each direct care staff person meets applicable requirements as follows:

- (1) Within the first 40 hours of providing consumer services in the facility, all new direct care staff shall complete an on-site orientation which addresses the following:
 - (A) The facility's program design;
 - (B) Consumer IPPs;
 - (C) Consumers' rights regulations;
 - (D) Assistance to consumers with prescribed medications, if applicable;
 - (E) Health and emergency procedures, including fire safety;
 - (F) Identification and reporting of Special Incidents, as required by Title 17, California Code of Regulations, section 54327(a); and
 - (G) Identification and reporting of consumer abuse as defined in section 56002(a)(1).
- (2) Receive on-the-job training as necessary to implement consumer IPPs.
- (3) Receive continuing education in one or more of the following areas, as they relate to planning and implementation of residential services for persons with developmental disabilities:
 - (A) Consumer services as described in the program design;
 - (B) Promotion of consumers' rights, health, safety, and social and physical integration; and
 - (C) The ID Team process, including development and implementation of IPPs.

(b) Service Level 2 direct care staff shall complete a minimum of eight hours of continuing education, as described in subsection (a)(3), above within each twelve-month period following the assumption of the duties of direct care staff.

(c) Service Level 3 direct care staff shall complete a minimum of 12 hours of continuing education specified in subsection (a)(3) above within each twelve-month period following the assumption of the duties of direct care staff.

(d) Service Level 4 direct care staff shall:

- (1) Have a minimum of six months of prior experience providing direct supervision and special services; or
- (2) Within six months of beginning to provide direct-care supervision and special services in the facility, complete at least 12 additional hours of continuing education as specified in subsection (a)(3) above.
- (3) Complete a minimum of 12 hours of continuing education which meets the requirements specified in subsection (a)(3) above within each twelve-month period following the assumption of the duties of direct care staff.

(e) Direct care staff shall complete any additional training in a specific knowledge area(s) which has been identified as needing improvement in the written notification pursuant to Section 56033(d)(2).

(f) Successful completion of the competency-based training and passage of the competency test required by Section 56033(a)(1) or (2) shall satisfy the direct care staff continuing education requirements specified in this section for a direct care staff for the year in which the training is satisfactorily completed.

(g) For direct care staff, passing the challenge test without attending the competency-based training required by Section 56033(a)(1) or (2) shall not satisfy the direct care staff continuing education requirements specified in this section.

NOTE: Authority cited: Sections 4681.1, 4681.5(e) and 4748, Welfare and Institutions Code. Reference: Sections 4648, 4681.1, 4681.5, 4695, 4791, 4833 and 4843, Welfare and Institutions Code.

Article 8. Monitoring and Evaluation

56048. Facility Liaison Quality Assurance (QA) Monitoring of the Facility.

(a) The regional center shall designate a facility liaison for each Service Level 2, 3 and 4 facility in the regional center's service catchment area, in which consumers of the regional center reside.

(b) The regional center shall assign a facility liaison to each facility in such a way as to minimize the number of staff responsible for monitoring consumer services and providing technical assistance to the facility.

(c) The administrator shall:

- (1) Establish, with the facility liaison, an agreeable date and time for the monitoring visit;
- (2) Provide access to all records pertaining to the provision of consumer services.

(d) The facility liaison shall:

- (1) Complete a minimum of one monitoring visit, which may be unannounced pursuant to Welfare and Institutions Code Section 4681.1, to each facility each year;
- (2) Review staff schedules for compliance with the approved service level requirements;
- (3) Review personnel training files to assure compliance with Sections 56033, 56034, 56034.1, and 56036 through 56038;
- (4) Select and review a randomly chosen sample of 20 percent, rounded up to the nearest whole number, of the consumer records, to ensure that:
 - (A) Services are provided in accordance with the program design and IPP;
 - (B) All documents pursuant to section 56059(a) and (b) are complete and current.
- (5) Provide a copy of "Looking at Service Quality Provider's Handbook" bearing no publication or revision date, to and review the individual life quality outcomes and self-assessment process with the administrator.
- (6) Review the Service Level 4 program design with the administrator to determine program effectiveness in achieving the IPP objectives for which the facility is responsible.

(e) In conducting facility liaison monitoring visits, the facility liaison may inspect the residential service provider's grounds, buildings, and services.

Note: Authority cited: Sections 4681.5(e), 4681.1, 4748 and ~~4791(i)~~, Welfare and

Institutions Code; ~~Chapter 722, Statutes of 1992, Section 147.~~ Reference: Sections 4422, 4646.5, 4648, 4648.1, 4681.1, ~~4681.5,~~ 4740, 4742, 4743, 4745, 4746, 4748, and 4750 and 4791, Welfare and Institution Code.

Article 9. Corrective Action Plans and Sanctions

56054. Substantial Inadequacies.

(a) Substantial inadequacies are the following:

- (1) Conditions posing a threat to the health and safety of any consumer, that are not considered an immediate danger as specified in section 56053;
- (2) Provision of fewer direct care staff hours than are required by the facility's approved service level;
- (3) Violations of consumers' rights as defined in section 56002(a)(9);
- (4) Failure to provide consumer services as specified in the consumer's IPP;
- (5) Failure to comply with the terms of the consumer's Admission Agreement;
- (6) Deficiencies or irregularities in the handling of the consumer's cash resources, personal property, and valuables;
- (7) Failure to comply with the requirements for administrator and staff qualifications and/or administrator and staff training;
- (8) Failure of a Service Level 4 facility to utilize the instructional methods and techniques which are specified in the facility's program design;
- (9) Failure of a Service Level 4 facility to utilize the methodology for measurement of consumer progress toward achievement of IPP objectives which is specified in the facility's program design;~~or~~
- (10) Failure to take a required corrective action pursuant to Section 56052 within the specified time frame~~;~~
- (11) Failure to:
 - (A) File an accurate and complete report verifying the use of rate increase funds authorized by Welfare and Institutions Code Section 4681.4(a) or (b) as required by Title 17, California Code of Regulations, Section 56934(a);
 - (B) Utilize Welfare and Institutions Code Section 4681.4 (a) or (b) rate increase funds for the purposes specified in Title 17, California Code of Regulations, Section 56932(a)(1) through (3);
 - (C) Utilize Welfare and Institutions Code Section 4681.4 (a) or (b) rate increase funds for a purpose which has been approved by the Department pursuant to Title 17, California Code of Regulations, Section 56932(a)(4); or

(12) Failure to ensure that a direct care staff:

- (A) Completes the competency-based training and testing required by Section 56033(a)(1) or (2); or
- (B) Completes any additional training required by Section 56033(d)(2); or
- (C) Complies with Section 56033(f)(1) or (2) when the direct care staff has failed to satisfactorily complete the competency-based training and competency testing.

(b) When the regional center receives a report that there are substantial inadequacies in the services of a facility, or when the regional center discovers that there are substantial inadequacies in the services of a facility, the regional center shall have the authority to make an unannounced visit to the facility ~~if the regional center has determined that the purpose of the visit would be thwarted if advance notice were given.~~

NOTE: Authority cited: Section 11152, Government Code; Sections 4681.5(e), 4681.1, 4748 and 4794(i), Welfare and Institutions Code; Chapter 722, Statutes of 1992, Section 147. Reference: Sections 4646.5, 4647, 4648, 4648.1, 4681.1, 4681.4, 4681.5, 4742, 4743, 4745, 4746, 4747, and 4748 and 4794, Welfare and Institutions Code.

56057. Sanctions.

(a) The regional center shall apply sanction(s) to the facility when:

- (1) A substantial inadequacy is not corrected within the time frame specified in the CAP developed pursuant to Section 56056; or
- (2) There are two findings of substantial inadequacy in the same facility within any twelve-month period.

(b) If the regional center determines that the substantial inadequacy(ies) is related to the basic staffing level or the additional weekly direct care staff hours being provided by a facility, the regional center may reduce the approved service level to the level associated with the total number of staff hours actually being provided by the facility.

(c) In determining the number of staff hours being provided by a facility, the regional center shall determine the basic staffing level and the average number of direct care staff hours provided by the facility during a minimum of four one-week periods during the previous 12 months.

(d) In all findings of substantial inadequacy ~~other than as specified in subsection (b),~~ the regional center may:

- (1) ~~Recommend relocation to the consumer or the consumer's authorized representative by:~~
 - (A) ~~Giving a minimum of 15 days written notice to the facility administrator of the intent to discuss the consumer's relocation with the consumer or the consumer's authorized representative; and~~
 - (1)(B) ~~M~~meeting with the consumer, or the consumer's authorized representative, to discuss the situation, recommend relocation, and discuss the consequences of refusing to relocate; or
- (2) Not place consumers into the facility until the facility complies with the CAP.

(e) In addition to the actions specified in subsection (d), the regional center may, upon discovering that a finding of substantial inadequacy pursuant to Section 56054(a)(11)(A) through (C) has not been corrected within the time frame specified in the CAP developed pursuant to Section 56056, take one of the following actions:

- (1) Recover any misused or undocumented portion of the Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds; or
- (2) Offset an amount equal to the misused or undocumented portion of the Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds from future reimbursements to the licensee.

(f) When the regional center determines the appropriate sanction, the regional center shall provide written notification to the administrator, by certified mail, return receipt requested, of the following:

- (1) The action(s) to be taken;
- (2) The reason(s) for such action(s); and
- (3) The administrator's appeal rights pursuant to Sections 56061 through 56067.

NOTE: Authority cited: Section 11152, Government Code; Sections 4681.5(e), 4681.1, 4748 and 4794(i), Welfare and Institutions Code; Chapter 722, Statutes of 1992; Section 147. Reference: Sections 4648, 4648.1, 4648.2, 4681.5, 4745, 4746, and 4747 and 4794, Welfare and Institutions Code.

Article 10. Records Maintenance

56059. Residential Services Records.

- (a) Each Service Level 2, 3 and 4 facility shall maintain individual consumer files,

and a facility file.

(b) Individual consumer files shall contain the following:

- (1) Current emergency information, including names, addresses and telephone numbers of the consumer's authorized representative and pharmacy;
- (2) Recent consumer photograph and physical description;
- (3) Consumer inoculation records and TB clearance;
- (4) Consumer allergy record;
- (5) Signed consent for release of information form(s), if any;
- (6) Current IPP in accordance with section 56022;
- (7) Consumer notes pursuant to section 56026;
- (8) Quarterly or semi-annual reports pursuant to section 56026;
- (9) Copies of SIRs prepared as required by Title 17, California Code of Regulations, Section 54327(b) and
- (10) Current information provided by the regional center pursuant to section 56017(b).

(c) The facility file shall contain the following:

- (1) All items specified in section 56013;
- (2) QA Evaluation reports pursuant to section 56052;
- (3) CAPs, pursuant to section 56056;
- (4) A weekly staff schedule which specifies the number of staff in the facility during each hour of each day;
- (5) A weekly schedule which specifies the number of consumers in the facility during each hour of each day; and
- (6) Personnel and training records that verify compliance with Sections 56033, 56034 and, if applicable, 56034.1 which shall include, but not be limited to:
 - (1) The date on which the direct care staff was hired;
 - (2) The date on which the direct care staff's employment was terminated.
- (7) A copy of any direct care staff's written notification regarding challenge or competency testing pursuant to Section 56033(b) or (d).
- (8) Each written approval issued by the Department authorizing the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3); and
- (9) For a Foster Family Agency (FFA):

- (A) A copy of any approved FFA request for a waiver required by Section 56034.1;
- (B) A copy of the regional center's written approval of the FFA's request for a waiver; and
- (C) A copy of any decision by the Department regarding any FFA appeal pursuant to Section 56034.1(f).

NOTE: Authority cited: ~~Section 11152, Government Code;~~ Sections 4681.5(e), 4681.1 and 4748, Welfare and Institutions Code. Reference: Sections 4648.1, 4681.1, 4681.5, 4742, and 4745 ~~and 4791~~, Welfare and Institutions Code.

56060. Regional Center Records.

(a) The regional center shall maintain records which document:

- (1) Facility service level approval;
- (2) Quality assurance evaluations;
- (3) Regional center monitoring of consumer IPP objectives;
- (4) Facility liaison (QA) monitoring;
- (5) Special Incident Reports (SIRs);
- (6) Finding of Immediate Danger;
- (7) Substantial Inadequacies;
- (8) Corrective Action Plans;
- (9) Sanctions;
- (10) Facility appeals; ~~and~~
- (11) Quarterly reports from Service Level 4 facilities; and
- (12) The Department's approval of the use of Welfare and Institutions Code Section 4681.4(a) or (b) rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3).

NOTE: Authority cited: Sections 4681.5(e), 4681.1, and 4748 ~~and 4791(i)~~, Welfare and Institutions Code; ~~Chapter 722, Statutes of 1992, Section 147.~~ Reference: Sections 4502-4504, 4646.5, 4648, 4648.1, 4681.1, 4681.5, 4742, 4743, 4745, and 4746 ~~and 4791~~, Welfare and Institutions Code.

Title 17, California Code of Regulations, Subchapter 4.3.

Verification of Use of Rate Increase Funds

56931. Definitions.

(a) When used in this article, the following words and phrases shall have the following meanings:

- (1) "Benefits" means health insurance, dental insurance, vision insurance, life insurance, long-term disability insurance, retirement plans, sick leave, bonus, paid vacation, holidays, employee assistance programs, employment-related education and training, social security, workers' compensation, unemployment insurance, and any other mandatory state and federal employer taxes.
- (2) "Compensation" means the total of:
 - (A) Benefits as defined in subsection (a)(1);
 - (B) Salaries as defined in subsection (a)(7);
 - (C) Wages as defined in subsection (a)(8);and
 - (D) The fair market value of all payments in kind, including, but not limited to, lodging and meals.
- (3) "Competency-based Training and Testing" means competency-based training and testing as defined in Title 17, California Code of Regulations, Section 56031(a)(4).
- (4) "Coverage" means employing qualified substitute direct care staff to provide direct supervision and special services to consumers while direct care staff are attending competency-based training and competency testing or taking a challenge test.
- (5) "Direct Care Staff" means facility staff in Service Level 2, 3 and 4 facilities who personally provide direct supervision and special services to consumers. The term includes the licensee, the administrator and management or supervisory staff during that time when they are providing direct supervision and special services to consumers.
- (6) "Licensee" means the adult, firm, partnership, association or corporation, having the authority and responsibility for the operation of a licensed community care facility.
- (7) "Salaries" means a fixed dollar amount of pay per pay period paid to direct care staff on a regular basis.
- (8) "Wages" means an hourly rate of pay which is paid to direct care staff.

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Section 4681.4, Welfare and Institutions Code.

56932. Purposes.

(a) Rate increase funds received pursuant to Welfare and Institutions Code Section 4681.4 (a) or (b) shall be used only for the following purposes:

- (1) Increasing direct care staff salaries, wages and benefits.
- (2) Reducing turnover of direct care staff and improving the overall quality of consumer care by increasing direct care staff salaries, wages and benefits in a manner which fairly and equitably allocates the rate increase funds derived from Welfare and Institutions Code Section 4681.4(a) or (b) among direct care staff employees with consideration for job tenure, duties, and relative number of hours worked.
- (3) Providing coverage while direct care staff are attending competency-based training and testing or taking a challenge test.
- (4) Other purposes which have been approved by the Department.

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Section 4681.4, Welfare and Institutions Code.

56933. Verification Requirement.

Each licensee of a Service Level 2, 3, or 4 facility who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4 (a) or (b) for the purposes specified in Section 56932 shall provide to the regional center verification of the use of any rate increase funds received by the licensee.

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Section 4681.4, Welfare and Institutions Code.

56934. Rate Increase Funds Verification Procedures.

(a) Each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(a) during the 1999 calendar year shall report in writing the use of those rate increase funds to the regional center.

(b) Each licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(b) during the 2000 calendar year shall report in writing the use of those rate increase funds to the regional center.

(1) Not less than 30 days prior to the date specified in subsection (c), the regional center shall notify the licensee in writing of the necessity to report the use of rate increase funds.

(c) The licensee's written report, pursuant to subsection (a) or (b), shall be postmarked no later than March 1 of the calendar year following the year in which the rate increase funds were received by the licensee.

(d) The licensee's written report, pursuant to subsection (a) or (b), shall contain, but not be limited to, the following information:

- (1) The name, address and telephone number of the facility submitting the report;
- (2) The licensee's vendor identification number;
- (3) The amount of rate increase funds the licensee received during the calendar year for which the written report is being submitted;
- (4) A signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee:
 - (A) Has read and understands the requirements of Sections 56932 through 56935;
 - (B) Has increased direct care staff salaries, wages and benefits in a manner which fairly and equitably allocates the increased funds derived from Welfare and Institutions Code Section 4681.4(a) or (b) among direct care staff with consideration for job tenure, duties, and relative number of hours worked, if applicable; and
 - (C) Has spent the entire amount of rate increase funds received for the calendar year exclusively and entirely for the purposes authorized pursuant to Welfare and Institutions Code Section 4681.4(c)(1) through (3);

(e) The licensee's written report, pursuant to subsection (a) or (b), for those facilities where the licensee has received the Department's approval to use the rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) shall contain, but not be limited to, the following:

- (1) The information required by subsection (d)(1) through (3); and
- (2) A signed statement that the licensee declares under penalty of perjury under the laws of the State of California that the licensee has spent the

entire amount of rate increase funds received for the prior calendar year exclusively and entirely for the purposes approved by the Department pursuant to Section 56937.

(f) The regional center shall review a sample of the reports submitted by the licensees pursuant to subsection (a) and (b) to verify that the rate increase funds were spent in accordance with the requirements specified in Section 56932(a)(1) through (4).

(g) Verification of the use of rate increase funds shall include, but is not limited to, reviewing any of the work records employers are required to maintain by the Employment Development Department's regulations at Title 22, California Code of Regulations, Section 1085-2.

(h) The regional center shall retain one copy of each report filed pursuant to subsection (a) and (b) as well as documentation of findings of regional center reviews of verification reports pursuant to subsection (g) for a three year period.

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Section 4681.4, Welfare and Institutions Code; Section 1085-2, Title 22, California Code of Regulations.

56936. Criteria for Approving Rate Increase Funds Use for Other Purposes.

(a) A licensee who receives rate increase funds authorized by Welfare and Institutions Code Section 4681.4(b) may apply to the Department for approval to use the rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) when the licensee can document that, effective December 31, 1999, all direct care staff with a minimum of six (6) months of experience were receiving compensation at least equivalent to two-hundred and ten percent (210%) of California's minimum wage which was in effect on December 31, 1998 (\$12.08 per hour).

(b) When the licensee has complied with subsection (a), compensation of direct care staff with a minimum of six (6) months of experience shall be maintained at an amount equivalent to an hourly rate of no less than two-hundred and ten percent (210%) of California's minimum wage which was in effect on December 31, 1998 (\$12.08 per hour).

(c) The use of rate increase funds for purposes other than those specified in Section 56932(a)(1) through (3) shall be limited to expenditures which improve the quality of care provided to a consumer(s).

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Section 4681.4, Welfare and Institutions Code.

56937. Procedures for Approving the Use of Rate Increase Funds for Other Purposes.

(a) To request the Department's approval to use rate increase funds received during calendar year 2000 for purposes other than those specified in Section 56932(a)(1) through (3), the licensee shall submit to the Department all of the following:

- (1) Payroll records and other relevant documentation which establish the compensation paid to every direct care staff member for the pay period including December 31, 1999, and which clearly demonstrate that on an hourly basis, the compensation of each direct care staff member with a minimum of six months of experience, for every hour worked that pay period, equaled or exceeded two hundred and ten percent (210%) of California's minimum wage in effect on December 31, 1998 (\$12.08 per hour).
- (2) Work records which employers are required to maintain by Title 22, California Code of Regulations, Section 1085-2 for all employees; and
- (3) A description of the proposed use of the rate increase funds and an explanation of how the proposed use of rate increase funds is consistent with the criteria specified in Section 56936.

(b) The licensee's application shall be received by the Department no later than April 30, 2000.

(c) The proposed use of rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) shall not be implemented until the licensee is notified in writing of the Department's approval.

- (1) The Department's written approval for the use of rate increase funds for a purpose other than those specified in Section 56932(a)(1) through (3) shall be sent to the licensee and the regional center via certified mail within 60 days of the receipt of the information required by subsections (a)(1) through (3).

(d) The Department's decision is final.

NOTE: Authority cited: Section 4681.4(e), Welfare and Institutions Code. Reference: Sections 4681.4, Welfare and Institutions Code; Section 1085-2, Title 22, California Code of Regulations.